

AMENDED IN ASSEMBLY MARCH 28, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 496

Introduced by Assembly Member Correa
(Coauthors: Assembly Members *Daucher, Harman, Maddox, and*
***Negrete McLeod*)**
(Coauthor: Senator Soto)

February 14, 2003

An act to add and repeal Division 23.6 (commencing with Section 33807) ~~to~~ *of* the Public Resources Code, relating to the Santa Ana River Conservancy.

LEGISLATIVE COUNSEL'S DIGEST

AB 496, as amended, Correa. Santa Ana River Conservancy.

Existing law authorizes various conservancies to acquire, manage, direct the management of, and conserve public lands in the state.

This bill would, until January 1, 2011, establish the Santa Ana River Conservancy to acquire and direct the management of specified public lands in the Santa Ana River watershed area and would prescribe the management, powers, and duties of the conservancy. The bill would also create the Santa Ana River Conservancy Fund, but ~~this provision would not become operative~~ *would prohibit the conservancy from implementing the funding authorization* until the Legislature appropriates, or a bond act approved by the voters allocates, the necessary funds.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Division 23.6 (commencing with Section 33807) is added to the Public Resources Code, to read:

DIVISION 23.6. SANTA ANA RIVER CONSERVANCY

~~Article 1.—General Provisions and Definitions~~

CHAPTER 1. GENERAL PROVISIONS and DEFINITIONS

33807. This division shall be known, and may be cited, as the Santa Ana River Conservancy Act.

33808. (a) The Santa Ana River is the largest stream system in southern California. As a unit, the watershed covers an area of about 2,700 square miles in parts of Orange, San Bernardino, and Riverside Counties. The river has been subjected to intense development and is in need of restoration, conservation, and enhancement all along its length.

(b) Given the opportunities available, the state finds and declares that the Santa Ana River and its tributary, the Santiago Creek, constitute a unique and important open-space, environmental, anthropological, cultural, scientific, educational, recreational, scenic, and wildlife resource that should be held in trust to be preserved and enhanced for the enjoyment of, and appreciation by, present and future generations.

33809. For purposes of this division, the following terms have the following meanings:

(a) “Board” means the governing board of the Santa Ana River Conservancy.

(b) “Conservancy” means the Santa Ana River Conservancy.

(c) “Territory” means the entire length of the Santa Ana ~~river~~ River and the watershed areas that are located within the counties of Orange, Riverside, and San Bernardino.

1 ~~Article 2.—The Santa Ana River Conservancy~~

2
3 *CHAPTER 2. THE SANTA ANA RIVER CONSERVANCY*

4
5 33815. There is in the Resources Agency, the Santa Ana River
6 Conservancy, which is created as a state agency for the following
7 purposes:

8 (a) To acquire and manage public lands within the Santa Ana
9 River watershed, and to provide recreational opportunities, open
10 space, wildlife habitat and species restoration and protection,
11 wetland protection and restoration, protection and maintenance of
12 the quality of the waters in the Santa Ana River for all beneficial
13 uses, lands for educational uses within the area, and natural
14 floodwater conveyance.

15 (b) To provide for the public's enjoyment, and to enhance the
16 recreational and educational experience on public lands in the
17 territory in a manner consistent with the protection of land and
18 natural resources, and economic resources in the area.

19 33820. The conservancy shall do all of the following:

20 (a) Establish policies and priorities for the conservancy
21 regarding the Santa Ana River and its watershed, and conduct
22 necessary planning activities, in accordance with the purposes set
23 forth in Section 33815.

24 (b) Give priority to river related projects that create expanded
25 opportunities for recreation, greening, aesthetic improvement, and
26 wildlife habitat along the corridor of the river and in parts of the
27 river channel that can be improved for the above purposes without
28 infringing on water quality, water supply, and necessary flood
29 control.

30 (c) Approve conservancy-funded projects that advance the
31 purposes set forth in Section 33815.

32 (d) Prepare a Santa Ana River Parkway and Open Space Plan.
33 The plan shall accomplish, at minimum, all of the following:

34 (1) Determine the policies and priorities for conserving the
35 Santa Ana River and its watershed in accordance with the purposes
36 of the conservancy as set forth in Section 33815.

37 (2) Identify underused, existing public open spaces and
38 recommend ways to provide better public use and enjoyment in
39 those areas.

(3) Identify and prioritize additional low-impact recreational and open space needs, including additional or upgraded facilities and parks that may be necessary or desirable.

~~33825. The board shall consist of the following voting members and nonvoting members appointed as follows:~~

~~(a) —~~

33825. The board shall consist of 13 voting members and nine nonvoting members appointed as follows:

(a) The 13 voting members of the board shall consist of all of the following:

(1) Secretary of the Resources Agency, or his or her designee.

(2) Director of Finance, or his or her designee.

(3) One public member appointed by the Governor, who resides within the watershed and has expertise in economic development, agriculture or conservation, wildlife, and natural resources.

(4) Three public members appointed by the Governor, who reside within the watershed and are selected from a list submitted by all of the following:

(A) Orange County Council of Governments.

(B) Western Riverside Council of Governments.

(C) San Bernardino Association of Governments.

(5) One member of the Board of Supervisors of Riverside County, appointed by the majority of the members of that board.

(6) One member of the Board of Supervisors of San Bernardino County, appointed by the majority of the members of that board.

(7) One member of the Board of Supervisors of Orange County, appointed by the majority of the members of that board.

(8) One member of the Santa Ana Watershed Project Authority, appointed by the majority of the members of that authority.

(9) One public member appointed by the Senate Committee on Rules, who resides within the watershed and has expertise in conservation, wildlife, and natural resources.

(10) One public member appointed by the Speaker of the Assembly, who resides within the watershed and has expertise in conservation, wildlife, and natural resources.

(11) One representative designated by the Governing Councils of the San Manuel Band of Mission Indians and the Soboba Band of Luiseno Indians.

(b) The nine ex officio, nonvoting members of the board shall consist of all of the following officers or an employee of each

1 agency designated annually by that officer to represent the office
2 or agency:

3 (1) *Director of the Department of Parks and Recreation.*

4 (2) *District Engineer of the United States Army Corps of*
5 *Engineers.*

6 (3) *Secretary of the California Environmental Protection*
7 *Agency.*

8 (4) *Regional Forester, Pacific Southwest Region of the United*
9 *States Forest Service.*

10 (5) *General Manager, Eastern Municipal Water District.*

11 (6) *General Manager, Inland Empire Utilities Agency.*

12 (7) *General Manager, Orange County Water District.*

13 (8) *General Manager, San Bernardino Valley Municipal Water*
14 *District.*

15 (9) *General Manager, Western Municipal Water District.*

16 33826. (a) The term of each voting member of the board shall
17 be two years, or until the member's successor is appointed,
18 whichever is longer. A vacancy shall be filled within 60 days of its
19 occurrence by the appointing authority.

20 (b) Notwithstanding subdivision (a), a person may not continue
21 as a member of the board if he or she ceases to hold the office that
22 qualifies him or her to be appointed as a member of the board. The
23 membership on the board held by the person shall terminate if the
24 person ceases to hold the qualifying office or membership.

25 (c) The voting members of the board shall elect a chairperson,
26 vice chairperson, and other officers, as necessary, from among the
27 board members. The board shall determine the terms of those
28 offices.

29 (d) A member of the board who is not a full-time public
30 employee shall be compensated at a rate not to exceed one hundred
31 dollars (\$100) per regular meeting, not to exceed 12 regular
32 meetings per year, and shall be reimbursed the actual and
33 necessary expenses incurred in the performance of his or her
34 duties. A member may waive compensation.

35 (e) The conservancy may employ an executive officer and
36 other necessary staff to perform functions that cannot be provided
37 by the existing personnel, by others on a contract basis, or by
38 volunteers, and may enter into a contract for services requiring
39 knowledge, experience, and ability not possessed by the
40 conservancy staff. The board shall approve those contracts.

1 33830. (a) A quorum shall consist of a majority of the voting
2 members of the board. All meetings of the board shall be held in
3 accordance with the Bagley-Keene Open Meeting Act (Article 9
4 (commencing with Section 11120) of Chapter 1 of Part 1 of
5 Division 3 of Title 2 of the Government Code).

6 (b) An action of the board affecting a matter shall be taken by
7 a majority vote of the membership of the board, a quorum being
8 present.

9 (c) The governing board shall adopt its own rules and
10 procedures necessary to conduct its business.

11
12 ~~Article 3. Powers and Duties~~

13
14 *CHAPTER 3. POWERS and DUTIES*

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16 33840. The conservancy may manage, operate, administer,
17 and maintain the lands and facilities it acquires in accordance with
18 the purposes set forth in Section 33815. The conservancy may
19 adopt regulations governing public use of conservancy lands and
20 facilities and may provide for the enforcement of those
21 regulations.

22 33841. (a) The conservancy may acquire real property or an
23 interest in real property pursuant to the Property Acquisition Law
24 (Part 11 (commencing with Section 15850) of Division 3 of Title
25 2 of the Government Code) within the conservancy's territory
26 from willing sellers and at fair market value, upon a finding that
27 the acquisition is consistent with the purposes of the conservancy
28 as set forth in Section 33815. The conservancy may acquire the
29 property itself or may coordinate the acquisition through other
30 public agencies that have the authority to acquire property and that
31 have available funding or land to exchange. The conservancy may
32 hold a remainder interest in property in those instances in which
33 an owner desires to sell the property and retain a life estate, and
34 may create and administer a mitigation land bank and arrange land
35 exchanges, consistent with the purposes set forth in Section 33815.
36 The overall objective of the land acquisition program shall be to
37 assist in accomplishing land transactions that are mutually
38 beneficial to the landowner and the conservancy, and that meet the
39 conservancy's purposes. Neither the conservancy nor the State

1 Public Works Board may exercise the power of eminent domain
2 pursuant to this division.

3 (b) To the extent not in conflict with another law, the
4 conservancy may exercise the right of first refusal for surplus
5 public agency property located within its territory for the purposes
6 of the conservancy, as *et set* forth in Section 33815, subject to the
7 conditions and provisions of the adopted Santa Ana River Parkway
8 and Open Space Plan, and shall conform to all relevant general and
9 specific plans and zoning regulations of local agencies within the
10 territory of the conservancy.

11 (c) Prior to entering into an agreement to acquire an interest in
12 real property, or to lease, rent, sell, exchange, or transfer real
13 property or an interest therein or an option acquired under this
14 division, within the territory of the conservancy for open space or
15 conservation purposes, the conservancy shall provide 30 days
16 written notice to the legislative body of the affected local agency,
17 if that project was not included in the Santa Ana River Parkway
18 and Open Space Plan.

19 33842. (a) The conservancy shall have, and may exercise, all
20 rights and powers, expressed or implied, necessary to carry out the
21 purposes of this division, except as otherwise provided.

22 (b) The conservancy may not levy a tax, exercise the power of
23 eminent domain, or regulate land use, except on lands it owns,
24 manages or controls.

25 (c) The conservancy shall be subject to all laws, regulations,
26 and general and specific plans of the legislative body of the local
27 agency that has jurisdiction in the area in which the conservancy
28 proposes to take action.

29 33843. The conservancy may do all of the following:

30 (a) Sue and be sued.

31 (b) Enter into contracts with a public agency, private entity, or
32 person necessary for the proper discharge of the conservancy's
33 duties, and enter into a joint powers agreement with a public
34 agency, in furtherance of the purposes set forth in Section 33815.

35 (c) Lease, rent, sell, exchange, or transfer real property or
36 interest therein or an option acquired under this division to a local
37 public agency, state agency, federal agency, nonprofit
38 organization, individual, or other entity pursuant to terms and
39 conditions approved by the conservancy for management

1 purposes, in accordance with the purposes set forth in Section
2 33815.

3 (d) Initiate, negotiate, and participate in an agreement for the
4 management of land under its ownership or control by a local
5 public agency, state agency, federal agency, nonprofit
6 organization, individual, or other entity, and initiate, negotiate,
7 and participate in an agreement for the management of land under
8 the ownership or control of those entities by the conservancy, in
9 accordance with the purposes set forth in Section 33815.

10 (e) Enter into an agreement with a public agency, private entity,
11 or person necessary for the proper discharge of the conservancy's
12 duties for the purposes set forth in Section 33815.

13 (f) Recruit and coordinate volunteers and experts to conduct
14 interpretive and recreational programs and assist with construction
15 projects and the maintenance of parkway facilities.

16 (g) Undertake, within the territory, site improvement projects,
17 regulate public access, and revegetate and rehabilitate degraded
18 areas, in consultation with ~~another~~ *any other* public agency with
19 appropriate jurisdiction and expertise, in accordance with the
20 purposes set forth in Section 33815. The conservancy may also,
21 within the territory, upgrade deteriorating facilities and construct
22 new facilities as needed for outdoor recreation, nature
23 appreciation and interpretation, and natural resources projection.
24 The conservancy may undertake those projects by itself or in
25 conjunction with another local agency; however, the conservancy
26 shall provide overall coordination of those projects by setting
27 priorities for the projects and by ensuring a uniform approach to
28 projects. The conservancy may undertake those projects after 30
29 days written notice to the legislative body of the local agency that
30 has jurisdiction in the area in which the conservancy proposes to
31 undertake that activity.

32 33844. (a) The conservancy may award grants to local public
33 agencies, state agencies, federal agencies, and nonprofit
34 organizations for the purposes of this division.

35 (b) A grant to a nonprofit organization for the acquisition of
36 real property or interests in real property shall be subject to all of
37 the following conditions:

38 (1) The purchase price of an interest in land acquired by the
39 nonprofit organization may not exceed fair market value as
40 established by an appraisal approved by the conservancy.

1 (2) The conservancy approves the terms under which the
2 interest in land is acquired.

3 (3) The interest in land acquired pursuant to a grant from the
4 conservancy may not be used as security for a debt incurred by the
5 nonprofit organization unless the conservancy approves the
6 transaction.

7 (4) The transfer of land acquired pursuant to a grant shall be
8 subject to the approval of the conservancy and the execution of an
9 agreement between the conservancy and the transferee sufficient
10 to protect the interests of the state.

11 (5) The state shall have a right of entry and power of
12 termination in and over all interests in real property acquired with
13 state funds, which may be exercised if an essential term or
14 condition of the grant is violated.

15 (6) If the existence of the nonprofit organization is terminated,
16 title to all interest in real property acquired with state funds shall
17 immediately vest in the state, except that, prior to that termination,
18 another public agency or nonprofit organization may receive title
19 to all or a portion of that interest in real property, by recording its
20 acceptance of title, together with the conservancy's approval, in
21 writing.

22 (c) A deed or other instrument of conveyance whereby real
23 property is acquired by a nonprofit organization pursuant to this
24 section shall be recorded and shall set forth the executory interest
25 or right of entry on the part of the state.

26 33845. (a) The Santa Ana River Conservancy Fund is hereby
27 created in the State Treasury. Moneys in the fund shall be
28 available, upon appropriation, for the purposes of this division.

29 (b) The fee revenue and all other revenue received pursuant to
30 this division shall be deposited in the fund.

31 (c) The conservancy shall administer funds appropriated to it,
32 and may expend those funds for capital improvements, land
33 acquisition, or support of the conservancy's operations, in
34 accordance with the purposes set forth in Section 33815. The
35 conservancy may also accept revenue, money, grants, goods, or
36 services contributed to it by a public agency, private entity, or
37 person and, upon receipt, may use the revenue, money, grants,
38 goods, or services for capital improvements, land acquisitions, or
39 support of the conservancy's operations, in accordance with the
40 purposes set forth in Section 33815.

~~Article 4. Limitations~~

CHAPTER 4. LIMITATIONS

33850. Nothing in this division shall be interpreted to grant the board any regulatory or governing authority over an ordinance or regulatory measure adopted by a city, county, or special district that pertains to land use, water rights, or environmental quality.

(a) Notwithstanding any other provision of this division, the conservancy may not take an action that does any of the following:

(1) Interferes or conflicts with the exercise of the powers or duties of a watermaster, public agency, or other body or entity responsible for groundwater or surface water management or groundwater replenishment as designated or established pursuant to an adjudication or statute.

(2) Interferes or conflicts with a provision of a judgment or court order issued, or rule or regulation adopted, pursuant to an adjudication affecting water or water management in the Santa Ana River watershed and basin.

(3) Impedes or adversely impacts a previously duly adopted flood control project, or a maintenance agreement to operate the project.

(4) Results in the degradation of water quality, or interferes or conflicts with one or more of the following:

(A) An action by a watermaster or public agency that is authorized pursuant to statute.

(B) A water right or adjudication including, but not limited to, an action relating to water conservation, groundwater recharge, conservation or storage of water or both, the pumping of groundwater, water treatment, the regulation of spreading, injection, pumping, storage, or the use of water from local sources, stormwater flows and runoff, or from imported or reclaimed water that is undertaken in connection with the management of the Santa Ana River or a branch, stream, fork, or tributary thereof, a groundwater basin, or groundwater resource.

(5) Interferes with, obstructs, hinders, or delays the exercise of a water right by the owner of a public water system, including, but not limited to, the construction, operation, maintenance, replacement, repair, location, or relocation of a well or water pumping, treatment, or storage facility, pipeline, or other facility,

1 or property necessary or useful to the operation of the public water
2 system.

3 (b) The conservancy shall provide written notice to every water
4 association in the jurisdiction of the conservancy of a proposed
5 action, policy, or project that may affect a water right or water
6 delivery system at least 45 calendar days prior to the date set for
7 approval of those matters by the conservancy.

8 (c) The conservancy shall consult with other conservancies
9 within the Resources Agency prior to implementing a project
10 pursuant to this division in which there may be a jurisdictional
11 overlap between those conservancies. Each of those conservancies
12 shall make its best effort to resolve issues regarding a project
13 development that is carried out pursuant to this division in a
14 mutually advantageous and environmentally beneficial manner. A
15 dispute between the conservancies shall be referred to the
16 Resources Agency for resolution.

17 (d) As used in this section, “adjudication” means a final
18 judgment or order entered in a judicial proceeding adjudicating or
19 affecting water rights, surface water management, or groundwater
20 management.

21
22 ~~Article 5.—Repeal~~

23
24 *CHAPTER 5. REPEAL*

25
26 33860. (a) *The conservancy may not implement* Section
27 33845 ~~shall not become operative~~ until the Legislature
28 appropriates funds necessary to implement this division, or until
29 a bond act approved by the voters of this state includes an
30 allocation of funds for the purposes of this division.

31 (b) This division shall remain in effect only until January 1,
32 2011, and as of that date is repealed, unless a later enacted statute,
33 that is enacted before January 1, 2011, deletes or extends that date.